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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

THEIN, MARIA TERESA T

ART UNIT

PAPER NUMBER

3627

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/881,991	Applicant(s) BOUCOUSIS, PATRICK CHRISTIAN MICHAEL	
	Examiner MARISSA THEIN	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7 and 15-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's "Amendment" filed on July 27, 2007 is considered.

Applicant's response to claim 15 has overcome the Examiner's rejection under 35 U.S.C. § 112, first paragraph.

Applicant's response by virtue of amendment to claim 15 has overcome the Examiner's rejection under 35 U.S.C. § 112, second paragraph.

Applicant's response by virtue of amendment to claim 17-20 has not overcome the Examiner's rejection under 35 U.S.C. § 101

Applicant's response by virtue of amendment to claim 17-20 has not overcome the Examiner's rejection under 35 U.S.C. § 112, second paragraph.

Claims 15 and 17-20 have been amended. New claim 21 is added. Claims 7, and 15-21 remain pending in this application and an action on the merits follow.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 is not sufficiently precise due to the combining of two different statutory classes of invention in a single claim. The preamble of the claim refers to a system and a method, the body of the claim includes the method of claim 15 and discusses the

specifics of the system (an Internet accessible graphical interface). Furthermore, the recitation “software module” is a program recitation which is a system recitation.

Claims 18-20 are rejected as being dependent on claim 17 as discussed above.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 17-20 are rejected under 35 U.S.C. §101 because the claimed invention is directed to a non statutory subject matter.

35 U.S.C. §101 requires that in order to be patentable the invention must be a “new and useful process, machine, manufacture or composition of matter or new and useful improvement thereof” (emphasis added). Applicant’s claims mentioned above are intended to embrace or overlap two different statutory classes of invention as set forth in 35 U.S.C. §101. Furthermore, the claims does not recite a statutory class being method, process, system or computer readable medium comprising a program or executable instructions. The claim begins by discussing a system (ex. Preamble of claim 17), the body of the claim includes the method of claim 15 and discusses the specifics of a system (an Internet accessible graphical interface) and computer readable medium comprising a program or executable instructions (software module (program per se)....etc.). (See rejection of claims under 35 U.S.C. §112, second paragraph, for specific details regarding this issue). “A claim of this type is precluded by express language of 35 U.S.C. §101 which is drafted so as to set forth statutory the statutory

classes of invention in the alternative only”, Ex parte Lyell (17USPQ2d 1548). If applicant is trying to claim a program, Examiner suggest to rewrite the claim as “A computer readable medium containing executable instructions which, when executed in a computer, cause the computer to perform method steps...”. If applicant is trying to claim a system rewrite the claim as a system claim without the software program and the method claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 15-17 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,940,807 to Purcell in view of U.S. Patent No. 6,594,633 to Broerman.

Regarding claims 15 and 17, Purcell discloses a method and a system and computer readable medium for facilitating the exchange of information between vendors and seekers through a communication network including the steps of:

creating a fixed item catalogue (col. 3 lines 51-67; col. 4, lines 51-64)

having a service provider (host or administrator domain) create a catalogue of items that can be supplied by vendors that includes finite amount of items such that if an item is not present in the item catalogue it cannot be listed as being available for supply by a vendor (col. 4, lines 51-64; col. 6, lines 63-66; col. 9, lines 23-50);

having registered vendors indicate that they are able to supply items by listing the available items in an item catalogue such that if an item is not present in the item catalogue a vendor cannot list the availability of such item in the listing catalogue (col. 9, lines 7-14; col. 9, lines 23-50);

having registered seekers search in the item catalog for a specific item of information, the seekers only having access to search the item catalogue and not having access to the listing catalogue nor to information about any vendor (col. 7 lines 24-29; col. 9, lines 51-col. 10, line 9);

automatically searching the listing catalogue for the available items matching those being searched for the by the seekers in the item catalogue and providing details of the matched items, but not details of the vendors, to the seekers (col. 7, lines 24-34; col. 10 , lines 10-23); and

subsequently, automatically providing information for vendors where the seeker has requested such information and simultaneously providing information for the seeker to the vendor (col. 6, lines 27-31).

Furthermore, Purcell further discloses the use of an Internet accessible graphical interface in communication with the electronically searchable listing via accessing and utilizing a network commonly referred to as the Internet or World Wide Web (col. 4, lines 40-50).

However, Purcell does not explicitly disclose contact information. Broerman, on the other hand, teaches contact information (col. 18, lines 56-57).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Purcell, to include the contact information, as taught by Broerman, in order for the vendor and seeker to contact each other to get more information about the item.

Regarding claim 7, Purcell discloses a software module to recognize an item which is an assembly of items in the item catalogue such that the individual items may be listed as individual items in the listing catalogue (col. 9, lines 33-50)

Regarding claim 16, Purcell also discloses wherein a vendor designates a seeker, who has been identified to the vendor, as a seeker who is to be denied future access to that vendor's item records, said searching step being further defined as excluding that vendor's items in the listing catalogue from those provided to the seeker as a result of the seeker's query (col. 4, lines 20-32).

Regarding claims 19-20, Purcell further discloses the step of aiding the vendors to enter assemblies of items by providing a software module configured to recognize an item, which is an assembly of parts (col. 3, lines 57-64; col. 9, lines 33-50); and presenting vendors with a series of suggestion of possible terms that vendors can use to describe items listed in the listing catalogue (col. 9, lines 36-50).

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,940,807 to Purcell and U.S. Patent No. 6,594,633 to Broerman as applied to claim 15 above, and further in view of U.S. Patent No. 5,319,542 to King, Jr. et al. Purcell and Broerman substantially discloses the claimed invention, however,

the combination does not explicitly disclose allow a vendor to designate that the vendor's listing are not to be viewed by seekers specified by the vendor.

King, on the other hand, teaches the allow the vendor to designate that the vendor's listing are not to be viewed by seekers specified by the vendor (col. 5, lines 1-8).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination to include allow a vendor to designate that the vendor's listing are not to be viewed by seekers specified by the vendor, as taught by King, in order for the supplier (vendor) to control customer access to their database (King, col. 5, lines 7-8).

Response to Arguments

Applicant's arguments filed August 27, 2007 have been fully considered but they are not persuasive.

Applicant remarks that Purcell does not disclose "the creating of a fixed item catalog by the service provider from which sellers may select items which they can provide to be included in their own listing catalog".

The Examiner does not agree. Purcell discloses a system and method for matching buyers and sellers of product and services. The computerized system and method create a depository for sellers to indicate inventory availability. The system and method is used as a single entity to manage assets where multiple users require the ability to independently access the management system. (Col. 1, lines 18-26) The method includes the establishing of a host operated information management system

(fixed item catalogue) (col. 3, lines 50-53). The method further includes the controlling of the collection, processing and dissemination of information by a host (service provider) regarding product and service availability (col. 3, lines 46-48). Purcell discloses host approved sellers that are granted limited electronic access to an information management system so that each approved seller then has a self-initiated capability to exclusively access that seller's inventory information that is maintained on the information management system for adding, amending and deleting portions of the seller's inventory information (col. 3, lines 57-64).

Such system and method creating a depository for sellers to indicate inventory availability; system and method using as a single entity to manage assets where multiple users require the ability to independently access the management system; establishing of a host operated information management system; and host approved sellers that are granted limited electronic access to an information management system so that each approved seller then has a self-initiated capability to exclusively access that seller's inventory information that is maintained on the information management system for adding, amending and deleting portions of the seller's inventory information are considered "the creating of a fixed item catalog by the service provider from which sellers may select items which they can provide to be included in their own listing catalog".

Applicant remark "as the method of the present invention restricts sellers to only including items in their listing catalog which are already present in the fixed item catalog, this ensures absolute uniformity regarding the listing of identical items by

multiple sellers, effectively eliminating the possibility of error, discrepancy, and duplicate records for the same item”.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant remark “Furthermore, the Purcell patent claims a compiling step whereby similar products are condensed into single entries before being presented to the buyer (“...compiling said buyers matched listing of products and services into a condensed listing so that multiple listings for similar products or services are reduced to single entries for brevity and simplification for the reviewing buyer...” Purcell, page 12, lines 26-30). As above, this step is wholly unnecessary in the present invention, as a uniform listing scheme is ensured from the outset. Additionally, as described above, the present invention is specifically directed towards overcoming this inefficient and error-prone method for creating item catalogs as described in Purcell.”.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant remarks that Purcell does not disclose "once the buyer has indicated interest in an available item, the present invention automatically and fully discloses the identity and contact information of the seller to the buyer".

The Examiner does not agree. The combination of Purcell and Broerman discloses "once the buyer has indicated interest in an available item, the present invention automatically and fully discloses the identity and contact information of the seller to the buyer". Purcell discloses a host information management system that manages and processes all the information entered and stored within the system, and controls the access granted to both buyers and sellers (col. 8, lines 61-65). Purcell discloses that when a seller's information has been inputted, it is the host system's purpose to make it available in a format to potential buyers of the products and services (col. 9, lines 47-50). Purcell discloses a buyer choosing a product and making a purchase decision, thus starting a transaction (col. 10, lines 10-14). Direct communication may be facilitated between a buyer and a seller and each may be electronically interconnected (col. 6, lines 28-31).

Such seller's information has been inputted, it is the host system's purpose to make it available in a format to potential buyers of the products and services; buyer choosing a product and making a purchase decision, thus starting a transaction; and direct communication may be facilitated between a buyer and a seller are considered once the buyer has indicated interest in an available item, automatically and fully discloses information.

The Examiner then turns to Broerman to teach the disclosing of identity and contact information of the seller to the buyer (communicating the contact information for one of the seller and buyer to the other of the seller and buyer, col. 18, lines 56-57).

Applicant remark "Finally, Purcell includes functionality allowing for the initiation and completion of a transaction between buyer and seller, as well as the charging of fees (Purcell page 13 lines 6-12). The present invention contains no such functionality, as it is directed towards introducing the two parties, not processing transactions between them."

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARISSA THEIN whose telephone number is (571)272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. Ryan Zeender/
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Mtot /M. T./
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May 12, 2008